

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:05CR366
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
v.)	
)	
SAMI SALEM,)	GOVERNMENT'S MOTION TO REDUCE
)	<u>SENTENCE UNDER RULE 35(b)(2)</u>
Defendant.)	

Now comes the United States of America, by and through its counsel, William J. Edwards, Acting United States Attorney, and Thomas J. Gruscinski, Assistant United States Attorney, and respectfully moves this Court to reduce defendant Sami Salem's sentence, specifically by departing downward by 1 level under the advisory Sentencing Guidelines. As grounds for this motion, the United States makes the following representations.

On May 21, 2007, this Honorable Court sentenced defendant Sami Salem to 1 year and 1 day custody of the Bureau of Prisons, to be followed by three years of supervised release.¹ The Court based the sentence on a total offense level of 11 and a Criminal History Category III, for a range of 12-18 months.

¹ The Court also ordered defendant to pay a \$500 special assessment and to forfeit \$265,797.00 to the United States, both of which financial conditions have been met.

-2-

Under Federal Rule of Criminal Procedure 35(b)(2), the Court may reduce a defendant's sentence upon a motion from the United States to reflect substantial assistance rendered by a defendant after sentencing. Specifically, when more than one year has passed since sentence was imposed, Rule 35(b)(2) authorizes a sentence reduction where the substantial assistance involved:

(A) information not known to the defendant until one year or more after sentencing;

(B) information provided by the defendant to the government within one year of sentencing, but which did not become useful to the government until more than one year after sentencing; or

(C) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after sentencing and which was promptly proved to the government after its usefulness was reasonably apparent to the defendant.

In this instance, defendant has provided information on multiple topics that are of substantial assistance to the United States. Some of this information was not known to the defendant until more than one year after sentencing. Some of the information was provided within one year of sentencing but was not useful to the government until more than one year after sentencing. And finally, some of the information was such that defendant could not have anticipated its usefulness to the government until more than one year after sentencing, and yet defendant promptly provided the information after its usefulness became apparent.

Based upon the information provided, the United States respectfully moves that this Honorable Court reduce defendant's sentence by one additional level pursuant to Rule 35(b)(2). If

-3-

granted, the resulting sentencing range under the advisory Sentencing Guidelines would be Level 10, Criminal History Category III, with a sentencing range of 10-16 months in Zone C. The United States further respectfully requests expedited ruling on this motion since defendant's self-reporting date to the Bureau of Prisons is presently August 15, 2008.²

While this motion pursuant to Rule 35(b)(2) must be filed by the government, it is the government's understanding that defendant does not oppose it. However, defendant may wish to be heard on the motion in that, if the Court were to grant the government's motion, the Court would have greater sentencing options in Zone C than the Court originally had in Zone D.

WHEREFORE, the United States respectfully requests that this Court reduce defendant's sentence by one level to reflect post-sentence substantial assistance by defendant to the government.

Respectfully submitted,

WILLIAM J. EDWARDS
Acting United States Attorney

/s/Thomas J. Gruscinski
Thomas J. Gruscinski
Assistant United States Attorney
Reg. No. 412826 (D.C.)
801 West Superior Avenue
Suite 400
Cleveland, Ohio 44114-2600
(216)622-3914
(216)522-8354 (fax)
E-mail: Thomas.Gruscinski@usdoj.com

² If this motion is granted, defendant would be in a Zone C rather than Zone D, and his Bureau of Prisons designation (and resulting self-surrender location) could change.

-4-

CERTIFICATE OF SERVICE

The undersigned certifies that on August 5, 2008, a copy of the foregoing Motion to Reduce Sentence was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

/s/ Thomas J. Gruscinski
Assistant U. S. Attorney